IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 11239 of 2004

Between:

D. Nagender, E. 95350, S/o D. Shivaiah
R/o H. No. 1-4-113, Main Road, Nalsab Mohella,

Zaheerabad, Medak District

..... PETITIONER

AND

1 The APSRTC, rep by Managing Director, Musheerabad, Hyderabad
2 The Divisional Manager, APSRTC, Medak Division, at Sangareddy
3 The Regional Manager, APSRTC, Medak Region, at Sangareddy
4 The Depot Manager, APSRTC, Zaheerabad Depot, Medak District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus to set a side the order of the Divisional Manager, APSRTC, Medak Division (Order No. PA/25(38)/01-DVM-SRD, dt 30-8-2001 to the extent of Fresh Conductor" and treating the period from the date of removal i.e. 9-5-2001 till 30-8-2001 as continuity of service.

Counsel for the Petitioner:MR.P.RAGHAVENDRA REDDY

Counsel for the Respondents: MR.K.HARINATH, Standing Counsel for

APSRTC

The Court at the stage of admission made the following ORDER:

The petitioner worked as a Conductor in the respondents Corporation. He was removed from service on 09-05-2001 for certain irregularities. In the appeal preferred by him, the second respondent set aside the order of the first respondent reinstating him into service with immediate effect as a fresh Conductor and posted him to Gajwel, Pregnapur Depot. The second respondent further observed that the period of removal from service to the date of reporting to duty shall be treated as not on duty for all purposes. The petitioner being aggrieved by the order of the second respondent, preferred review to the third respondent and the third respondent confirmed the order of the second respondent through its order dated 29-05-2003. The petitioner being aggrieved by the order for not treating the period from the date of removal till the date of reinstatement as not on duty and denial of back wages, filed this writ petition praying to set aside the orders of the respondents 2 and 3 to the extent of denial of treating the period as on duty and payment of back wages.

The respondents opposed the same by contending that keeping in view of the seriousness of the misconduct of the petitioner, the second respondent rightly came to a conclusion that the petitioner is not entitled for back wages and continuity of service, which was rightly confirmed by the third respondent in the review petition. He therefore, requested to dismiss the petition.

The learned counsel for the petitioner represented that though the second

respondent mentioned in the order that the petitioner is reinstated, the second respondent wrongly observed that it shall be treated as a fresh appointment. He further submitted that in WP.Nos.11182 and 11186 of 1992, the learned Single Judge of this Court construed the scope of the word “reinstatement” and observed that it shall be construed that he is deemed to have been in continuous service. He therefore, represents that the wording “reinstatement” used by the second respondent shall be construed as taking the petitioner into service as continuity of service but not as a fresh appointment and requested to pass appropriate orders.

After carefully going through the record and in view of the wording used by the second respondent as “reinstatement”, the period from the date of removal to the date of reinstatement shall be treated as on duty but in the circumstance, without monetary benefit.

In the result, the order of the respondents 2 and 3 shall be accordingly, modified by treating the order as follows:

> “The petitioner is entitled to get the period from the date of removal to the date of reinstatement be treated as continuity of service without monetary benefit but the period shall be treated as continuity of service for the purpose of computing the notional increments and other benefits to which, the petitioner is entitled for the entire period of service”.

The writ petition is accordingly, disposed of. No order as to costs.

30th JULY, 2004.

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To

1 The Managing Director, APSRTC, Musheerabad, Hyderabad
2 The Divisional Manager, APSRTC, Medak Division, at Sangareddy
3 The Regional Manager, APSRTC, Medak Region, at Sangareddy
4 The Depot Manager, APSRTC, Zaheerabad Depot, Medak District

5 Two CD copies.